IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

SPL. APPL. WRIT No. 919 of 2006

JAGDISH PRASAD SHARMA
V/S
STATE & ORS

Mr. MS SINGHVI, for the appellant / petitioner

Date of Order : 24.10.2007

HON'BLE SHRI N P GUPTA,J.
HON'BLE SHRI MUNISHWAR NATH BHANDARI,J.

ORDER

Heard learned counsel for the appellant.

The grievance of the appellant is that the learned Single Judge has upheld the power of Regional Director under Section 283 to the extent of directing the Municipality to terminate the services of the appellant, while according to the appellant, the employer is the Municipality, and it is the Municipality alone, who can take the decision, whether to continue the appellant in service or not, but then Municipality cannot be compelled to act under the orders of the Regional Director.

Perusal of the impugned order shows that the learned Single Judge has observed regarding the nature of the appointment of the appellant, and then has observed that Section 283 confers the powers of inspection and supervision of the Municipality in the State, then after reproducing Section 283 has held that the Executive Officer, therefore, could not straightway appoint the

petitioner on the post of Assistant Inspector in the regular pay scale without due process of law, and then the order of the learned Labour Court was considered, whereby the appellant was ordered to be reinstated, and ultimately the writ petition has been allowed directing the appellant to be reinstated, and regarding backwages also, certain directions have been given. Obviously, since the termination order was passed in compliance of the order of the Regional Director that has bee quashed, in that view of the matter, it cannot be said that the learned Single Judge has upheld the powers of the Regional Director. In that view of the matter, this contention need not detain us. It may however, be clarified that since the order of termination has been passed in compliance of the order Annex.3, which termination order has been set aside, obviously, the direction given in Annex.3 regarding termination stands exhausted. However, it is always open to the Municipality itself to take independent decision, as to whether it would like to proceed to take action under Section 25F of the Industrial Disputes Act or not.

We thus do not find any force in the appeal. The same is, therefore, dismissed summarily.

(MUNISHWAR NATH BHANDARI),J. (N P GUPTA),J.

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